



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

January 27, 2016

CERTIFIED MAIL

Mr. Dave Roberts
United Steelworkers Local 12-369
797 Stevens Drive
Richland, Washington 99352

Dear Mr. Roberts:

FREEDOM OF INFORMATION ACT (FOI 2016-00192)

This office is in receipt of your requests dated November 13, 2015, requesting information pertaining to Washington Closure Hanford, Inc. (WCH); Fluor Hanford, Inc. (FHI); Allied Technology Laboratories, Inc. (ATL); CH2M Hill Hanford Group Inc. (CHG); Pacific Northwest National Laboratory, Inc. (PNNL); Bechtel Hanford, Inc. (BHI); Bechtel National, Inc. (BNI); CH2M HILL Plateau Remediation Company (CHPRC); Perma-Fix Northwest Richland (PFNW); Phoenix Enterprises Northwest, Inc. (Phoenix); and Mission Support Alliance, LLC (MSA):

1. All cost reimbursement requests, including attorney's fees, expenses and arbitrator fees related to arbitration proceedings involving the above companies and any labor union at the Hanford Site or the city of Richland during the past 10 years.
2. All cost reimbursement requests for back pay, back benefit contributions or other costs of complying with labor arbitration awards in any arbitration proceedings involving the above companies and any labor union at the Hanford Site or the city of Richland during the past 10 years.
3. All U.S. Department of Energy (DOE), Richland Operations Office (RL) or Office of River Protection (ORP) Hanford Site or city of Richland cost reimbursements to the above companies for costs and expenses related to union arbitrations for the last 10 years.
4. Any certifications submitted by the above companies at the Hanford Site or city of Richland for reimbursement of arbitration costs, fees or expenses or for arbitration award payments in which the companies claimed it is entitled to such reimbursements.

For the purpose of determining fees, you have been categorized as an "other" requestor. In this category, you are entitled to 100 pages of photocopies at no charge and 2 hours of search time. Because all 10 requests you submitted relate to the same subject matter, your requests have been combined and assigned Freedom of Information Act (FOIA) tracking number 2016-00192. Your requests were assigned to the following DOE offices to conduct a search: RL's Procurement Division, Office of Chief Counsel and the Procurement Support Division and ORP.

In a series of telephone communications with Mr. Bill Collins of your staff, Mr. Collins narrowed the scope of the requests to documents in the possession of RL and generated in the past year.

Enclosed are responsive documents to Items 1, 2 and 4 located in the files of RL for ATL, CHPRC, MSA and WCH. Within the documents, we have made certain deletions pursuant to Exemptions 3, 4, 5, 6 and 7e.

Exemption 3 incorporates into the FOIA other laws that restrict the availability of specific information. To qualify under this exemption, a statute must require information to be withheld in such a manner as to leave no discretion to the agency. 26 U.S.C. § 6103, "Confidentiality and disclosure of returns and return information," prohibits the release of tax identification numbers.

Exemption 4 protects "trade secrets and commercial or financial information obtained from a person and privileged or confidential." Information that is required to be submitted by a person is "confidential" for purposes of Exemption 4 if disclosure is likely to either (1) impair the Government's ability to obtain reliable and high-quality information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information is obtained. Within the documents, we have deleted the charge card numbers, bank account numbers and other financial data, corporate account numbers, etc., as this information is "commercial" and/or "Financial" because it relates to business activities.

Exemption 5 shields from mandatory disclosure documents that are "inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency" (5 U.S.C. 552(b)(5) and 10 CFR 1004.10(b)(5)). There are three traditional privileges that fall under this definition of exclusion: (1) the attorney-client privilege, (2) the attorney work-product privilege, and (3) the executive "deliberative process" or "pre-decisional" privilege. Within the documents we have deleted privileged information. The privileged information contained in these documents consists of the descriptions of the specific services provided, dates on which legal services were provided by each attorney, the monthly and daily totals of hours billed by each attorney, and the total monthly dollar amount charged for each attorney's services. This information is privileged because it would provide opposing counsel with insight into our contractors' litigation strategy by revealing the timing and intensity of the work performed by its legal staff or by private law firms.

Exemption 6 provides that an agency may protect from disclosure all personal information if its disclosure would constitute a clearly unwarranted invasion of privacy by subjecting the individuals to unwanted communications, harassment, intimidation, retaliation, or other substantial privacy invasions by interested parties.

In invoking Exemption 6 we considered (1) whether a significant privacy interest would be invaded by disclosure of information, (2) whether release of the information would further the public interest by shedding light on the operations or activities of the government, and (3) whether in balancing the private interest against the public interest, disclosure would constitute a clearly unwarranted invasion of privacy. Within the documents, we have deleted charge card account numbers, bank account numbers and any other personal information pursuant to Exemption 6 of the FOIA. We have determined that the public interest in the release of the personal information that appears in the documents does not outweigh the individuals' privacy interests.

Lastly, Exemption 7(E) provides that "records or information compiled for law enforcement purposes" may be withheld from disclosure, but only to the extent that the production of such documents "would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law."

Sensitive information about networks and systems has been withheld pursuant to Exemption 7(E). The withheld information pursuant to Exemption 7(E) includes, but is not limited to, law enforcement and/or security purposes to prevent future illegal acts in the form of cyber security intrusions that could be used to obtain classified or sensitive information on networks without authorization.

This satisfies the standard set forth by the Attorney General by Memorandum on March 19, 2009, that the agency is justified in not releasing material if it reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions or disclosure is prohibited by law. This also satisfies DOE's regulation at 10 CFR 1004.1, to make records available which it is authorized to withhold under 5 U.S.C. 552 when it determines that such disclosure is in the public interest. Accordingly, we will not make discretionary disclosure of this information.

We conducted a thorough search and no responsive documents were located for FHI, CHG, BHI, BNI, PFNW, and Phoenix. In addition, no documents were located for Item 3 of your request. Our search was conducted by those within the agency who are most familiar with the subject matter of your request, in locations where documents would most likely be found.

In your request, you also asked for information regarding "Battelle/PNNL." Any documents that may exist at DOE that are responsive to your request are under the jurisdiction of the DOE Pacific Northwest Site Office (PNSO). For this reason, this request was forwarded to the DOE Oak Ridge Office on November 23, 2015. The Oak Ridge Office responds to requests for PNSO and will respond directly to you. If you have any questions about the processing of your request, you may contact Ms. Amy Rothrock, P.O. Box 2001, Oak Ridge, TN 37831. She can be reached on 865-576-1216.

All releasable information in the documents has been segregated and is being provided to you. The undersigned individual is responsible for this determination. You have the right to appeal to the Office of Hearings and Appeals, as provided in 10 CFR 1004.8, for the adequacy of our search or for any information that has been denied to you. Your appeal shall be filed within 30 days after receipt of this letter. You may submit your appeal by e-mail to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line. Alternatively, any such appeal may be made in writing to the following address: Director, Office of Hearings and Appeals (HG-1), U.S. Department of Energy, L'Enfant Plaza Building, 1000 Independence Avenue SW, Washington, D.C. 20585-1615. Should you choose to appeal, please provide this office with a copy of your e-mail or letter.

Costs associated with your request are as follows:

Reproduction – 568 pages (468 with 100 pages at no charge) @ \$.05/page	\$ 23.40
Search time – 12.9 hours (2 hours at no charge) @ \$43.73/hour	<u>476.66</u>
Total	\$ 500.06

Your check of \$500.06 should be sent to my attention at the following address: DOE, P.O. Box 550, Richland, Washington, 99352.

If you have any questions regarding your request, please contact me at our address above or on (509) 376-6288.

Sincerely,

-Original Signed By-

Dorothy Riehle
Freedom of Information Act Officer
Office of Communications
and External Affairs

OCE:DCR

Enclosures